



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35656]

Progressive Rail Incorporated—Acquisition and Operation Exemption—Rail Lines of Crab Orchard & Egyptian Railroad Company

Progressive Rail Incorporated (PGR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Crab Orchard & Egyptian Railroad Company (COER) and to operate 12.23 miles of COER's rail lines in Williamson County, Ill.<sup>1</sup> The rail lines are: (1) COER's Marion District between milepost 99.47 at or near Ordill and milepost 108.00 at or near Marion, a distance of 8.53 miles; (2) COER's Herrin District between milepost No. 10.7 and milepost 13.4, a distance of 2.7 miles; and (3) north from the wye track between milepost No. C94 and milepost C93, a distance of 1.0 mile.

PGR certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier but that its projected annual revenues will exceed \$5 million. On Sept. 5, 2012, as part of its initial verified notice of exemption filing, PGR certified that it posted the notice required by 49 CFR 1150.32(e) at the headquarters of COER at Marion.<sup>2</sup>

Although PGR indicates that the proposed transaction will be consummated no

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<sup>1</sup> PGR originally filed its notice of exemption on September 5, 2012. On September 6 and September 7, 2012, it amended its notice of exemption. Accordingly, September 7, 2012, will be considered the filing date of the verified notice.

<sup>2</sup> PGR explains that, because COER employees are not members of a labor union, the notice was not sent to the national office of any labor union.

sooner than the 30 days after the verified notice was filed, under 49 CFR 1150.32(e) this exemption cannot become effective November 4, 2012 (60 days after PGR submitted its certification to the Board).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than October 26, 2012 (at least seven days before the exemption becomes effective).

An original and ten copies of all pleadings, referring to Docket No. FD 35656, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112.

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Decided: September 17, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig

Clearance Clerk

[FR Doc. 2012-23370 Filed 09/20/2012 at 8:45 am; Publication Date: 09/21/2012]